



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA – 2014-0101]

Notice of Buy America Waiver

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of Buy America waiver.

SUMMARY: This Notice provides NHTSA's finding with respect to a request from the Idaho Department of Transportation (IDOT) to waive the requirements of Buy America for the purchase of Child Passenger Safety (CPS) training dolls. NHTSA finds that a non-availability waiver of the Buy America requirements is appropriate for the purchase of the CPS training dolls using Federal highway safety grant funds because there are no suitable products produced in the United States.

DATES: The effective date of this waiver is **[INSERT DATE 5 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Written comments regarding this notice may be submitted to NHTSA and must be received on or before: **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Written comments may be submitted using any one of the following methods:

- **Mail:** Docket Management Facility, M-30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12-140, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590.

- **Fax:** Written comments may be faxed to (202) 493-2251.
- **Internet:** To submit comments electronically, go to the Federal regulations website at <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Hand Delivery:** West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., between 9 am and 5 pm Eastern Time, Monday through Friday, except Federal holidays.

Instructions: All comments submitted in relation to this waiver must include the agency name and docket number. Please note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. You may also call the Docket at 202-366-9324.

FOR FURTHER INFORMATION CONTACT:

For program issues, contact Barbara Sauers, Office of Regional Operations and Program Delivery, NHTSA (phone: 202-366-0144). For legal issues, contact Andrew DiMarsico, Office of Chief Counsel, NHTSA (phone: 202-366-5263). You may send mail to these officials at National Highway Traffic Safety Administration, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION:

This Notice provides NHTSA's finding that a waiver of the Buy America requirements, 23 U.S.C. 313, is appropriate for IDOT to purchase CPS training dolls using grant funds authorized under 23 U.S.C. 402 (section 402) and 23 U.S.C. 405(b) (section 405) to train safety professionals, police officers, fire and emergency medical personnel, educators, and parents on the use of child restraints and occupant protection. Section 402 funds are available for use by State Highway Safety Programs to reduce traffic accidents and deaths, injuries and property

damage and to encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles. 23 U.S.C. 402(a). Section 405(b) funds are available for use by State Highway Safety Programs to implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles that, among other things, includes supporting resources and training in all aspects of the use of child restraints. See 23 U.S.C. 405(b)(4)(A)(ii).

Buy America provides that NHTSA “shall not obligate any funds authorized to be appropriated to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or [Title 23 U.S.C.] and administered by the Department of Transportation, unless steel, iron, and manufactured products used in such project are produced in the United States.” 23 U.S.C. 313. However, NHTSA may waive those requirements if (1) their application would be inconsistent with the public interest; (2) such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) the inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent. 23 U.S.C. 313(b).

IDOT seeks a waiver to purchase CPS training dolls because there are no sufficient products produced domestically that meet the needs identified by IDOT. IDOT aims to use the CPS training dolls to educate caregivers and CPS technicians how to properly restrain infants and children in child restraints and how to select the correct restraint for each child based on the child’s age, height, and weight, and/or physical disability. Idaho notes that regular play dolls are inadequate for the purpose of CPS training because such dolls do not accurately replicate an infant’s or child’s physical build, such as, height, weight, and structural proportions (e.g., an

infant's head is 25% of the infant's total body weight). In contrast, CPS training dolls are designed to model the typical physique of a child at a certain age.

Idaho seeks to purchase CPS training dolls from Huggable Images, which offers for sale CPS training dolls that are manufactured in China. This company provides CPS training dolls that simulate newborns (including premature newborns), infants, toddlers and children of varying heights and weights.

However, IDOT is unable to identify other CPS training dolls manufactured in the United States. IDOT states that it worked closely with the Idaho Chapter of the American Academy of Pediatrics to research the availability of CPS training dolls manufactured or assembled in the United States. Its research included Internet research, research through a supplier network, Thomasnet.com and an email request to over 1400 child passenger safety professionals. Despite Idaho's efforts, it was unable to find any American made CPS training dolls. NHTSA conducted similar assessments and is not aware of any CPS training dolls produced in the United States.¹ Since these items are unavailable from a domestic manufacturer, the Buy America waiver is appropriate. NHTSA invites public comment on this conclusion.

In light of the above discussion, and pursuant to 23 U.S.C. 313(b)(2), NHTSA finds that it is appropriate to grant a waiver from the Buy America requirements to IDOT in order to purchase the CPS training dolls. This waiver applies to Idaho and all other States seeking to use section 402 and 405 funds to purchase these items for the purposes mentioned herein. These waivers will continue through fiscal year 2015 and will allow the purchase of these items as required for IDOT and its training programs. Accordingly, this waiver will expire at the

¹ One company, Nasco, offers one day old infant dolls that are life-like to train expecting parents the basics of baby care. See <http://www.enasco.com/c/fcs/Child+Development+Family+Life/Newborn+Baby+Dolls/>. While these training dolls are anatomically correct, they are not necessarily accurate for height and weight that would be appropriate for CPS training.

conclusion of fiscal year 2015 (September 30, 2015). In accordance with the provisions of Section 117 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy of Users Technical Corrections Act of 2008 (Pub. L. 110-244, 122 Stat. 1572), NHTSA is providing this Notice as its finding that a waiver of the Buy America requirements is appropriate for the CPS training dolls. Written comments on this finding may be submitted through any of the methods discussed above.

Authority: 23 U.S.C. 313; Pub. L. 110-161.

Issued in Washington, DC under authority delegated in 49 CFR part 1.95.

O. Kevin Vincent,

Chief Counsel.

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